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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/510,294

06/15/2005

Christophe Rousselle

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EXAMINER

KO, STEPHEN K

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/510,294	<b>Applicant(s)</b> ROUSSELLE, CHRISTOPHE	
	<b>Examiner</b> STEPHEN KO	<b>Art Unit</b> 4151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6<sup>th</sup> October 2004</u> .                             | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 recites the limitations "placing the rigid support/flexible substrate" in line 5 and "a fabric inside a fabric treatment machine" in line 6. It is unclear about what specific step it is claiming. It is assumed to be "placing the rigid support/flexible substrate into a fabric treatment machine" and "placing a fabric inside a fabric treatment machine" respectively for examination purpose. Also it is unclear about the numbering of steps.

4. Claim 3 recites the limitation "washing machine" in line 3. There is insufficient antecedent basis for this limitation in the claim.

5. Claim 10 recites the limitation "releasably attached to the flexible substrate a rigid support". It is unclear about what specific structure it is claiming. It is assumed to be "releasably attached to a rigid support".

6. Claims 12 and 14 provide for the use of a device according to claim 1 and according to claim 10 respectively, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending

to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 12 and 14 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-2, and 4-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Grand et al (US 3,698,095).

9. For claims 1-2, 4, 8, 11-12, and 14, Grand et al teach a process of utilizing a fiber conditioning article for transferring fabric treatment agent to a laundry (abstract) comprising folding a flexible covering sheet (read as flexible substrate, Fig.1, #14, col.3, L.4), containing conditioning agent (read as fabric treatment agent, Fig.1, #17, col.3, L.6), inwardly over a cylindrical form retaining base (Fig.1 and Fig.2, #13, col.3, L.4) of a cylindrical paper board tube (read as rigid support, Fig.1 and Fig.2, #14, col.3, L.4); and placing the conditioning article (read as ridge support/flexible substrate, abstract) and

the laundry (read as fabric, abstract) into a dryer (read as fabric treatment machine, abstract) for tumbling contact (read as operating the fabric treatment machine, abstract). Note that the cylindrical paper board tube is a frame and is smaller than the flexible covering sheet in width (Fig.1).

10. For claim 5, note that the cylindrical paper board tube is in cylindrical shape (read as endless frame, Fig.1 and Fig.2, #13, col.3, L.4).

11. For claim 6, note that the flexible covering sheet comprises fibers (read as fibrous material, col.4, L.42).

12. For claim 7, note that the flexible covering sheet is a sheet (Fig.4).

13. For claim 9, note that the laundry is brought into tumbling contact (read as agitating, abstract) with the conditioning article causing the transfer to the laundry of softening agent (abstract).

14. Regarding claims 10 and 13, note that a fiber conditioning article (read as a device or a kit, title) comprises a flexible covering sheet (read as flexible substrate, Fig.1, #14, col.3, L.4) containing a conditioning agent (read as fabric treatment agent, Fig.1, #17, col.3, L.6), wherein the flexible covering sheet folded inwardly over a cylindrical form retaining base (Fig.1 and Fig.2, #13, col.3, L.4) of a cylindrical paper board tube (read as rigid support, Fig.1 and Fig.2, #14, col.3, L.4).

### ***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

17. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grand et al (US 3,698,095) in view of Hendrickson et al (US 4,254,139).

18. Grand et al teach a process for delivering a fabric treatment agent to a fabric cited above. Not that Grand et al teach a process, wherein the fabric treatment machine can be other tumbling device instead of a laundry dryer.

19. Grand et al do not teach a process wherein the fabric treatment machine is a washing machine.

20. Hendrickson et al teach a process for dispensing conditioner to fibrous materials (read as fabric, abstract) comprising placing a conditioner dispensing article (read as ridge support/flexible substrate, abstract) in other laundry tumbling apparatus such as washing machine instead of a laundry dryer (col.6, L48-50).

21. Since Grand et al and Hendrickson et al both describe a process for delivering a fabric treatment agent to a fabric in other laundry tumbling apparatus other than a laundry dryer and Hendrickson et al indicate washing machine as an example of the other laundry tumbling apparatus, one skilled in the art at the time the invention

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motivated by Hendrickson et al would have found obvious to utilize the process of Grand et al to deliver a fabric treatment agent to a fabric in a washing machine with the reasonable expectation of success.

22. Grand et al do not teach a process wherein the temperature of the water in the washing machine is greater than or equal to 40°C.

23. Regarding claim 3 reciting the temperature of the water in the washing machine is greater than or equal to 40°C, it is noted that the temperature of the water is result effective, because the temperature affects the rate of conditioning composition removed from a substrate, and one skilled in the art would modify the temperature of the water to achieve optimum result, consult, *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHEN KO whose telephone number is (571)270-3726. The examiner can normally be reached on Monday to Thursday, 7:30am to 5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Barr/  
Supervisory Patent Examiner, Art  
Unit 1792

SK